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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG/LEK
)	
Plaintiff,)	DECLARATION OF RONALD ALBU IN
)	SUPPORT OF DAPHNE E. BARBEE'S
vs.)	ATTORNEY FEE MOTION
)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
JOHN DOES 2-5,)	
)	
Defendants.)	
_____)	

DECLARATION OF RONALD ALBU
IN SUPPORT OF DAPHNE E. BARBEE'S ATTORNEY FEE MOTION

STATE OF HAWAII)
) SS.
HONOLULU CITY AND COUNTY)

I, RONALD ALBU hereby declare under the penalty of perjury that:

1. I am an attorney duly licensed to practice law in the State of Hawaii
and I am also admitted to practice before the United States District Court for the District of
Hawaii.

2. I have been emphasizing labor and employment law representing primarily
employees in my private practice since 1992. I am currently the President

of the National Employment Lawyers Association-Hawai'i Affiliate, which is concerned with employee issues in labor and employment law. Attached as Exhibit A is an accurate copy of my curriculum vitae. I have handled and assisted in a number of employee discrimination cases, and recently obtained a jury verdict in a sexual harassment case against Hawaiian Airlines. The Final Judgment entered in that case is in excess of \$1,000,000.00.

3. My current hourly rate for representing parties in labor and employment cases is \$350.00 per hour. In addition, there are charges for photocopying, deposition costs and all costs of litigation including expert fees, for which the client is obligated. Because of the costs of litigation and the inability of many victims of discrimination to pay hourly fees, I often represent individuals in employment matters on a modified contingency fee basis. Contingency fees of 33 1/3% if a case settles, 40% if it is tried, and 50% if it is appealed are standard in this community. To compensate for the risk of nonpayment in contingency fee cases, it is important that the courts award a multiplier or enhancement for the risk of nonpayment in addition to the lodestar. Employees who have been terminated without significant financial resources have a more difficult time attracting experienced attorneys to represent them than their employers who can afford to pay hourly bills on a regular basis. This is an important factor, as the risks involved in representing employees are high.

4. I am aware that attorney fees for partners in Honolulu law firms that emphasize labor and employment law can range from \$300.00- \$450.00 per hour. In 2005, according to Pacific Business News, the range was from \$200 - \$475 per hour. See Exhibit B. The more senior partners with 15-20 years experience were at the upper end of this range. Among the firms surveyed were:

- a. Marr Jones & Pepper (now Marr Jones)
- b. Alston Hunt Floyd & Ing
- c. Carlsmith Ball
- d. Verner Lipfert Barnhard McPherson & Hand
- e. Goodsill Anderson Quinn & Stifel
- f. Torkildson Katz Fonseca Jaffe Moore & Hetherington
- g. Law Offices of David Simons
- h. Bays Deaver Lung Rose & Baba
- i. Watanabe Ing Kawashima & Komejii
- j. Dwyer Schraff, Meyer, et al.

5. It is my conclusion, based upon my personal knowledge of the long-term experience, background, and expertise of Daphne E. Barbee, who was one of the first Hawaii Civil Rights Commissioners (1989), who was the first trial counsel for the EEOC Honolulu office (and who has lectured at NELA and EEOC seminars), and who has over 27 years of litigation experience, that she should be awarded the prevailing market rate for professionals of similar experience and background, and that she should be awarded an enhancement because of the risks of non-recovery for her work.

6. It is my further understanding that the hourly rate of \$350.00 sought by attorney Daphne Barbee is at or below the prevailing market rate for professionals in this community of similar experience and background.

Further declarant sayeth naught.

DATED: Honolulu, Hawaii, April 9, 2008.


RONALD ALBU